

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

1. **JIMMY ISSO**

and

2. **BUSHRA ISSO**

Plaintiffs,

v.

3. **WESTERN EXPRESS, INC.**

and

4. **THOMAS RJ SCHNEIDER**

Defendants.

Case No.:

Honorable

Complaint with Jury Demand

Overview

1. On or about March 31, 2012, a Western Express, Inc. tractor trailer crashed into the rear of the car in which Jimmy Isso was

riding as a passenger, resulting in injuries including brain damage and multiple fractures.

Parties

2. Plaintiff Jimmy Isso is a domiciliary and citizen of the State of Arizona.
3. Plaintiff Bushra Isso is a domiciliary and citizen of the State of Arizona and, at all relevant times, the wife of Plaintiff Jimmy Isso.
4. Defendant Western Express, Inc. (“Western Express”) is registered with the Federal Motor Carrier Safety Administration with a USDOT # of 511412 and is a corporate entity organized and existing under the laws of the State of Tennessee with its principal place of business in Nashville, Tennessee. Accordingly, Western Express is a citizen of the State of Tennessee. Western Express has designated David B. Schneider at American Moving and Storage Association, located at 304 N.W. Thirteenth St., Ste. 120, Oklahoma City, OK 73103, as its statutory agent for the purposes of service of process under 49 C.F.R. §366.
5. Defendant Thomas RJ Schneider resides at 4809 Jones Cove Road, Cosby, TN 37722. He is a domiciliary and citizen of the State of Tennessee.

Statement of Jurisdiction

6. Plaintiffs' claims are brought under 28 U.S.C. § 1332(a)(1), based upon diversity of citizenship.
7. Since Plaintiff was a citizen of Arizona, no Defendant is also a citizen of Arizona and the amount in controversy (exclusive of costs and interest) exceeds \$75,000, diversity jurisdiction exists in this Honorable Court.
8. Venue is appropriate in this Court as this action arises from a motor vehicle accident occurring near the city of Erick, Beckham County, Oklahoma which is located in this judicial district.

Background Facts

9. On or about March 31, 2012, Plaintiff Jimmy Isso was traveling as a passenger in a car on westbound I-40.
10. At or near the Texas state line, the driver of the car Plaintiff Jimmy Isso was traveling in began to slow down because of fog.
11. At approximately the same time at approximately the same location, Defendant Thomas RJ Schneider, while in the course and scope of his employment with Defendant Western Express, was operating a tractor/semi-trailer flatbed truck on westbound on I-40.
12. Defendant Thomas RJ Schneider failed to operate his tractor-trailer with reasonable care given the hazardous conditions and

crashed into the vehicle in which Plaintiff Jimmy Isso was traveling as a passenger.

FIRST CAUSE OF ACTION

Negligence of Defendant Thomas RJ Schneider

13. All allegations and causes of action above are incorporated in this cause of action by reference.
14. Defendant Thomas RJ Schneider had a duty to drive his semi-tractor trailer in a safe and reasonable manner, to obey all traffic laws, obey all traffic devices and to recognize and yield to slow or stopped traffic.
15. On March 31, 2012, Defendant Thomas RJ Schneider failed in the above-mentioned duties and is therefore negligent.
16. Defendant Thomas RJ Schneider's negligence was the direct and proximate cause of Plaintiff Jimmy Isso's injuries.
17. Plaintiff's injuries are permanent.
18. As a direct and proximate result of Defendant Thomas RJ Schneider's negligence, Plaintiff suffers past and future wage loss, loss of fringe benefits and a diminished earning capacity.
19. Plaintiff incurred medical bills for the treatment of his injuries directly resulting from this collision.

20. As a direct and proximate result of Defendant Thomas RJ Schneider's negligence, Plaintiff experienced physical and mental pain and suffering and loss of the ability to perform usual activities, resulting in a diminished quality of life.

SECOND CAUSE OF ACTION

Statutory Violations of Defendant Thomas RJ Schneider

21. All allegations and causes of action above are incorporated into this cause of action by reference.

22. Defendant Thomas RJ Schneider violated state and federal statutes and regulations, including but not limited to 47 O.S §§ 11-310, 11-801, 11-901 and 49 C.F.R. §§ 350-399.

23. Defendant Thomas RJ Schneider's statutory violations directly and proximately caused Plaintiff's damages and injuries.

24. Defendant Thomas RJ Schneider is negligent *per se* based on these statutory and regulatory violations.

THIRD CAUSE OF ACTION

Claim for Punitive Damages against Defendant Thomas RJ Schneider

25. All allegations and causes of action above are incorporated into this cause of action by reference.

26. Defendant Thomas RJ Schneider's actions demonstrate a conscious disregard for the rights and safety of Jimmy Isso and the rest of

the motoring public. Plaintiff demands punitive damages against Defendant Thomas RJ Schneider

FOURTH CAUSE OF ACTION

Vicarious Liability of Defendant Western Express

27. All allegations and causes of action above are incorporated into this cause of action by reference.
28. At all relevant times, Defendant Thomas RJ Schneider was the employee, agent, servant, or independent contractor for Defendant Western Express. Accordingly, Defendant Western Express is vicariously liable for the acts of Defendant Thomas RJ Schneider described in the causes of action above.
29. Regardless of the employment or agency relationship, Defendant Western Express is an interstate motor carrier responsible for the acts of the defendant driver.

FIFTH CAUSE OF ACTION

Strict Liability of Defendant Western Express

30. All allegations and causes of action above are incorporated into this cause of action by reference.
31. Defendant Western Express is the registered owner of the USDOT number 511412 displayed on the tractor/semi-trailer involved in this collision and is therefore responsible for the acts of Defendant Thomas RJ Schneider.

SIXTH CAUSE OF ACTION

Statutory Violations of Defendant Western Express

32. All allegations and causes of action above are incorporated into this cause of action by reference.
33. Defendant Western Express violated state and federal statutes and regulations, including but not limited to 49 C.F.R. §§ 350-399.
34. Defendant Western Express's statutory violations directly and proximately caused Plaintiff Jimmy Isso's damages.
35. Defendant Western Express is negligent *per se* based on these statutory and regulatory violations.

SEVENTH CAUSE OF ACTION

Claim for Punitive Damages against Defendant Western Express

36. All allegations and causes of action above are incorporated into this cause of action by reference.
37. Defendant Western Express's actions demonstrate a conscious disregard for the rights and safety of Jimmy Isso and the rest of the motoring public. Plaintiff demands punitive damages against Defendant Western Express.

EIGHTH CAUSE OF ACTION

Consortium Claim

38. All allegations and causes of action above are incorporated into this cause of action by reference.

39. Plaintiff Jimmy Isso and Bushra Isso were married at the time of the collision and remain married.

40. As a direct and proximate result of Defendants' negligence and statutory violations, Bushra has lost the companionship, society, services, and consortium of Plaintiff Jimmy Isso.

WHEREFORE, Plaintiff respectfully requests judgment in their favor and against all Defendants, in an amount in excess of seventy-five thousand dollars (\$75,000.00) (exclusive of costs and interest), in addition to punitive damages, costs and other relief that this Honorable Court deems just under the circumstances.

A JURY TRIAL ON ALL CLAIMS IS DEMANDED.

Attorneys' lien claimed.

Respectfully submitted,

/s/ Rex Travis

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